

Initial Appearance

(Open Session)

ICC-02/11-01/11

1 International Criminal Court
2 Pre-Trial Chamber III - Courtroom 1
3 Situation: Republic of Côte d'Ivoire
4 In the case of The Prosecutor v. Laurent Koudou Gbagbo - ICC-02/11-01/11
5 Presiding Judge Silvia Fernández de Gurmendi,
6 Judge Elizabeth Odio Benito and Judge Adrian Fulford
7 Initial Appearance
8 Monday, 5 December 2011
9 (The hearing starts in open session at 2.01 p.m.)
10 THE COURT USHER: All rise. The International Criminal Court is now in session.
11 Please be seated.
12 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Welcome all of
13 you, and without further delay I shall now ask the court officer to read out the case.
14 THE COURT OFFICER: Good afternoon, Madam President, your Honours. This is the
15 situation in The Republic of Côte d'Ivoire, in the case of The Prosecutor versus Laurent
16 Koudou Gbagbo, case number ICC-02/11-01/11. Thank you, your Honours.
17 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Thank you. On
18 behalf of my colleagues, Judge Elizabeth Odio Benito and Judge Adrian Fulford, I will
19 now like to ask the parties and the Registry to introduce themselves, but before we come
20 to that I would like to ask everyone to speak slowly and to observe a pause between
21 questions and answers in order to enable the interpreters to do their work adequately.
22 Mr Prosecutor, can you introduce yourself as well as the members of your teams.
23 MR MORENO-OCAMPO: The Office of the Prosecutor is represented by Reinhold
24 Gallmetzer, Phakiso Mochochoko, Pascal Turlan, Cecile Madec and the Prosecutor himself,
25 Luis Moreno-Ocampo.

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- 1 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Thank you. I
2 shall now turn to the Defence team. I would like to ask the Defence team to introduce
3 themselves and I would like to ask you to allow your client, Mr Gbagbo, to introduce
4 himself later.
- 5 MR ALTIT: (Interpretation) Good afternoon, your Honour. I know you know
6 Mr Keita; and next to me is -- there is Naouri, our legal assistant; then you have David
7 Hooper; there is the case manager; and myself, I am Emmanuel Altit, counsel of record for
8 Mr Gbagbo. Thank you.
- 9 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Thank you.
10 And the Registry, Ms Arbia.
- 11 MS ARBIA: (Interpretation) Good afternoon. I am the Registrar, and we have Cyril
12 Laucci, legal adviser, and Pieter Vanaverbeke, jurist. Thank you.
- 13 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Thank you,
14 Ms Arbia.
- 15 I would like to ask Mr Gbagbo now to introduce himself. Mr Gbagbo, speak -- please
16 stand up, and I would like to ask you to state your name, your date and place of birth and
17 your current occupation. And please switch on your microphone.
- 18 MR GBAGBO: (Interpretation) Good afternoon, Madam President, and thank you for
19 giving me the floor. My name is Laurent Gbagbo. I can see here it is written Laurent
20 Koudou Gbagbo. Koudou is also my name, but officially on the documents my name is
21 Laurent Gbagbo. Nevertheless, Koudou is another one of my names so in the case file it
22 is clear that it is me.
- 23 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Thank you.
24 Can you also state your date and place of birth?
- 25 MR GBAGBO: (Interpretation) I was born on 31 May 1945 in Gagnoa, Republic of Côte

1 d'Ivoire. And Gagnoa is spelt G-A-G-N-O-A, in the Republic of Côte d'Ivoire.

2 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Thank you. I

3 can see that you speak French and understand French.

4 MR GBAGBO: (Interpretation) Yes, I only speak French unfortunately.

5 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) That is your

6 mother tongue?

7 MR GBAGBO: (Interpretation) Yes.

8 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Thank you.

9 You can sit down. I believe that we -- before we continue, we have to clarify the nature

10 and scope of this hearing.

11 It should be understood that this is neither a trial nor a confirmation of charges hearing.

12 No evidence shall be adduced or presented here, nor shall there be any questions

13 pertaining to the guilt or innocence of Mr Gbagbo. This means that the scope of this

14 initial appearance shall be limited to three issues pursuant to Article 61 of the Rome

15 Statute as well as Rule 121(1) of the Rules of Procedure and Evidence which define the

16 purpose of the present hearing as follows:

17 Firstly, the Pre-Trial Chamber shall satisfy itself that the person who is the subject of the

18 arrest warrant has been informed of the crimes which he or she is alleged to have

19 committed. Secondly, the Pre-Trial Chamber shall satisfy itself that the person has been

20 informed of his or her rights under the Statute. Lastly, the Pre-Trial Chamber shall set

21 the date on which it intends to hold a hearing to confirm the charges.

22 That said, the Chamber will now consider, one after the other, the three issues that form

23 the subject of today's hearing. To begin with, my colleagues and I would like to tell you

24 as required by Article 60 of the Rome Statute, in fact, to ask you if you have been informed

25 of the crimes against you?

- 1 MR GBAGBO: (Interpretation) Yes, your Honour, I was informed.
- 2 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Do you wish
3 these crimes to be read out to you?
- 4 MR GBAGBO: (Interpretation) I do not think that this is necessary.
- 5 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Thank you, and
6 sit down. Mr Gbagbo, the Chamber should also satisfy itself that you were also informed
7 of your rights under the Rome Statute, in particular in its Article 67. Have you been
8 informed of your rights?
- 9 MR GBAGBO: (Interpretation) Yes, your Honour.
- 10 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Thank you.
11 Please be seated.
- 12 Nonetheless, I would like to recapitulate some of those rights which are of crucial
13 importance at this stage of the proceedings. I would like to remind you that, amongst
14 other rights, you are entitled to the following: You have the right to be informed
15 promptly and in detail of the nature, course and content of the charges in a language
16 which you fully understand and speak.
- 17 You can also have free of any cost the assistance of a competent interpreter, if you need
18 one, and such translations as are necessary to meet the requirements of fairness. You
19 have the right to adequate time and facilities for the preparation of your defence, and to
20 communicate freely and confidentially with the counsel of your choosing.
- 21 You have the right to remain silent, and not to be compelled to give self-incriminating
22 testimony or to confess guilt. You may also give unsworn statements in your own
23 defence. And lastly -- well, I will not be exhaustive.
- 24 In addition to any other disclosures provided for in the Statute, the Prosecutor shall, as
25 soon as practicable, disclose to you evidence in his possession or control which shows or

1 tends to show your innocence or mitigate your guilt or which may undermine the
2 credibility of Prosecution evidence.

3 Mr Gbagbo, let me address myself to you once again, to ask you whether you have any
4 observations to make relative to the conditions of your transfer and surrender to the
5 International Criminal Court or to the conditions of your detention at the seat of the Court
6 in The Hague ever since your arrival here?

7 MR GBAGBO: (Interpretation) Your Honour, the conditions of my detention at the
8 Court here at The Hague are fine. These are the normal detention conditions for a
9 human being. It is my arrest conditions that are not so correct.

10 I was arrested on 11 April 2011 under French shelling. I was the president of the republic
11 and the residence of the president of the republic was shelled from 31 March to 11 April.
12 It was in that destroyed residence, that is on 11 April, the residence had already been
13 razed to the ground and we were fighting in some of the Chambers of the residence.

14 About 50 French tanks had surrounded the residence while the helicopters were throwing
15 bombs. It was under those circumstances that I was arrested.

16 I observed my Minister of the Interior killed right in front of me. I saw my eldest son,
17 who is still in detention in Côte d'Ivoire. And incidentally, I do not know why he was
18 arrested. Maybe because it is simply due to the fact that he is my son. I saw him beaten.

19 Dr Blaze, who is in Korhogo and who was my personal physician, I witnessed him being
20 beaten. I thought he was going to die, but fortunately he survived, contrary to the case of
21 the Minister of the Interior.

22 I do not want to go into too much detail because we are not at trial yet, but those were the
23 circumstances of my arrest. It was the French army that carried out this arrest and
24 handed me over to the forces of Alassane Ouattara, who were not yet the regular forces of
25 the Côte d'Ivoire because the regular forces were with me.

1 We were taken to the Golf Hotel, which was the headquarters of Alassane Ouattara, on 11
2 April, and on the 13th the United Nations mission transferred me and my personal
3 physician to Korhogo, about 600 kilometres away. I was lodged in a house. There was a
4 bed, a mosquito net, a shower, and at my request I was offered two meals a day. I had
5 been offered three meals a day, but I had decided to take only two.
6 But that was the problem, but I could not see outside. I knew what was happening
7 outside only when it was raining on the roof. I was unable to see the sun, and the very
8 few times that I was able to see the sun was when my lawyers arrived, with difficulty.
9 Mr Altit went right to Korhogo and he spent two days there and he was prevented from
10 meeting with me. All the time there was a strong struggle between my lawyers and
11 those who were holding me in detention regarding the possibility of seeing me. I believe
12 that was not correct.
13 This is not an appeal for people to take pity on me. I am simply trying to describe the
14 imprisonment that I was subject to. I was not able to take a walk. I was not able to go
15 out and to see the sun. I had several other health conditions, in addition to those I had
16 already had, and I am no longer a young person. As you can realise, your Honour, I am
17 not 20 or 30 years old. I am 66 years old today. My shoulder hurts, my wrists hurt and,
18 even when I arrived here, fortunately I was X-rayed, I was provided with medication and
19 this is what I wanted to say.
20 Regarding my transfer to The Hague, your Honour, I am surprised by some of the
21 conduct. If I'm told that, "Mr Gbagbo, you are going to The Hague," I will board the
22 plane and I go to The Hague, but once again we were deceived. I was called up. I was
23 told that I was going to meet with a magistrate in Korhogo within the framework of a
24 certain case. My lawyers were brought there and, while we were discussing, the
25 sentencing judge arrived with an envelope - with a packet - which indeed I did not read,

1 and he said, "Look, this is the warrant of arrest," and so we needed to have a hearing on
2 the spot. That is what they did right there, whereas my lawyers were not prepared for
3 that. I myself was not prepared for that. They initiated a trial hearing to ensure that the
4 court should authorise my transfer.

5 I'm not regretting much. I am present here and we are going right to the end, but what
6 I'm trying to say is that things could have been done in a more regular or normal manner,
7 without concealing certain aspects from us. I was president of that country for a period
8 of ten years and I did not do that.

9 And when this hearing, which had been organised out-of-the-blue concluded, my captors
10 took me in a vehicle to take me back to my place of detention. Then I realised that we
11 were driving past that detention centre. I told him, "Look, we have gone beyond the
12 place of detention," and he told me, "Look, we are going to the airport and since there
13 were no lights at the airport after 6 p.m. the plane has to take off."

14 Then I asked him, "Where am I going by plane?" He did not even have the courage to tell
15 me, "You are going to The Hague." He told me, "You are going to Abidjan," and so I
16 laughed because I had understood and that is how I travelled without anything except my
17 pair of trousers and my shirt. I did not have anything else at all.

18 I am pointing this out so that you should be able to take the necessary measures to ensure
19 that in the future in other countries, in other cases, that does not happen again, because it
20 is pointless. It gives the impression that there are people who are of bad will who do not
21 want to appear.

22 If I am being accused it means that there is evidence on the basis of which I am being
23 accused, and then I appear, I would like to see what that evidence is, I will challenge that
24 evidence and then you hand down your judgment. So what I'm saying is it is a good
25 thing not to try and play hide and seek.

1 Your Honour, that is what I wanted to say about the conditions of my arrest, transfer and
2 detention here. As for the detention here, the conditions are normal. I do not have any
3 problem at all.

4 Thank you, your Honour. Thank you.

5 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) The Chamber is
6 now satisfied that Mr Gbagbo was informed of the crimes against him and his rights. We
7 will now set a date for the confirmation of hearing -- of charges hearing. This is the third
8 point to be dealt with in accordance to Rule 121(1). The Chamber has to accord sufficient
9 time for the parties to be able to prepare and participate usefully in the confirmation of
10 charges hearing.

11 In light of the previous experience in this Court, in this area, the Chamber decided to set
12 the date for the beginning of the confirmation of charges hearing on 18 June 2012. This
13 date may be moved forward depending on developments in the proceedings by the
14 Chamber on its own initiative, or at the request of the Prosecutor or the Defence, but the
15 Chamber hopes that this will not be the case and that the deadline set will be sufficient for
16 the disclosure of the evidence and materials and for the parties to prepare themselves
17 adequately.

18 I would like to also add that Rule 121(2) of the Rules of Procedure and Evidence stipulates
19 that the Chamber shall hold status conferences to exchange information; that is to ensure
20 that the disclosure takes place under satisfactory conditions. To that effect, a Judge of the
21 Pre-Trial Chamber shall be appointed to organise such status conferences. Consequently
22 the Chamber decides as follows, and I am going to read the decision of the Chamber:

23 Judge Silvia Fernández de Gurmendi is hereby appointed as the Single Judge in this case
24 for all matters under the responsibility of the Single Judge pursuant to Article 57(2) of the
25 Statute, including the disclosure of evidence.

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1 And now I would like to announce that I intend to convene the first status conference for
2 disclosure issues in the coming days. The date will be set in consultation with the
3 parties.

4 And now I would like to open up the floor to ask you whether you have any observations
5 regarding the date set by the Chamber, or relating to any of the other housekeeping
6 matters that I have just raised? Mr Prosecutor?

7 MR MORENO-OCAMPO: Your Honour, the Prosecution has no observations on the
8 date.

9 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: Thank you.
10 Mr Altit?

11 MR ALTIT: (Interpretation) Madam President, the Defence has no observations on the
12 date.

13 PRESIDING JUDGE FERNÁNDEZ DE GURMENDI: (Interpretation) Thank you.

14 If there are no further observations, we have now come to the end of the first appearance
15 hearing in this case. I would like to seize this opportunity to thank all of you, including
16 the interpreters and the court reporters.

17 I would like to ask the security officers to wait for the Judges to leave the courtroom
18 before escorting Mr Gbagbo out of the room. This hearing is adjourned.

19 (The hearing ends in open session at 2.27 p.m.)